

COUNTY OF YORK

MEMORANDUM

DATE: August 23, 2006 (BOS Mtg. 9/19/06)

TO: York County Board of Supervisors

FROM: James E. Barnett, County Attorney 

SUBJECT: Proposed vacation and conveyance of platted but unopened stub street—a portion of Mill Lane in Harwood Mill subdivision

This matter is returned to you to readopt with amendments Ordinance No. 05-20 and Resolution R05-124, both adopted by the Board at its meeting of July 19, 2005, in order to resolve objections raised by the real estate title company which is handling the sale by the County of a vacated portion of Mill Lane in Harwood Mill subdivision to Charter Hall Builders, the owner of one of the adjacent lots. You may recall that Charter Hall Builders owns Lot 9, Block B, of Harwood Mill subdivision, and also a smaller adjacent parcel immediately to the west of Lot 9, both of which are adjacent to a portion of Mill Lane which was platted in 1957, but never improved. In fact, the development of the property abutting Harwood Mill subdivision since the recordation of the subdivision plat is such that the extension of Mill Lane is impractical, as it dead ends at the rear of Heritage Square Shopping Center. The County's Department of Environmental and Development Services reviewed the request for the vacation of the street when the request was first made, and agrees that the improvement of Mill Lane now appears inadvisable. Charter Hall Builders has offered the County the sum of \$30,000 to acquire the stub street which, together with the other adjacent parcels that it already owns, would provide Charter Hall Builders with sufficient land to resubdivide the property into two buildable lots. Indeed, a subdivision plan to that effect has already been submitted to the County and has received final approval, pending only the completion of the vacation and conveyance of the stub street to the developer.

The delay in the closing on this transaction has been caused by several factors, some of which deal with the subdivision submission and approval process, another of which has been the extended period of time taken by the title company selected by the buyer to review title and issue a title commitment. The title company has now raised two title objections, one of which is not before the Board tonight and appears easily resolvable, stemming from the fact that the stub street is shown on the original subdivision plat as "reserved," a term which is not defined elsewhere on the plat. Fortunately, we have been able to locate the original developer's successor in interest who has indicated a willingness to cooperate in resolving that matter.

The other objection raised by the title company requires a new public hearing on the matter of the vacation of the stub street and its conveyance, this time proceeding under Code of Virginia § 15.2-2006 rather than § 15.2-2272, as was done a year ago. The title company expressed a concern that the use of Code § 15.2-2272 could potentially result in title to the street being divided along its center line, with title to one half of the street going to each of the abutting owners. The title company appears not to be impressed by the fact that the step necessary to actually convey title to each abutting owner, rather than

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conveying the entirety of the parcel to Charter Hall Builders, namely the recordation of the ordinance among the land records, was never undertaken, and was not contemplated to be undertaken. Consequently, this matter has been brought back before you so that the prior ordinance of vacation can be rescinded and a new ordinance adopted, referencing Code of Virginia § 15.2-2006 rather than 15.2-2272 as its authority, and likewise readopting the resolution authorizing the County Administrator to convey the vacated street to Charter Hall Builders. The adoption of the attached ordinance and resolution will accomplish both of those ends, and I recommend their adoption.

Barnett/3440:swb

- Attachments
- Subdivision plat of Harwood Mill—Section B
- Ordinance No. 06-23
- Resolution R06-116